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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/034,589	12/28/2001	Stephen T. Kuehn	S16.12-0128	1702

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ALTERA LAW GROUP, LLC
6500 CITY WEST PARKWAY
SUITE 100
MINNEAPOLIS, MN 55344-7704

EXAMINER

SCHOPFER, KENNETH G

ART UNIT	PAPER NUMBER
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3739

DATE MAILED: 04/02/2003

9

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/034,589

Applicant(s)

KUEHN ET AL.

Examiner

Kenneth G Schopfer

Art Unit

3739

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 6.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1 and 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Claim 1 recites the limitations "the annuloplasty ring" in lines 3-4 and "the handle" in line 8. There is insufficient antecedent basis for these limitations in the claim. The preamble of the claim states the apparatus is "for holding an annuloplasty ring," which does not include a positive recitation of the ring. It is unclear as to whether the ring is part of the claimed invention. Also, the claim states "handle coupling configured to couple... to a handle," which does not include a positive recitation of the handle. It is unclear as to whether the handle is being claimed as part of the invention in claim 1.

4. Claim 3 recites the limitation "the button" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Art Unit: 3739

6. Claims 1-8, 10-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Garrison et al. (USPN 5972030).

7. Referring to claims 1-8 and 10-16, Garrison et al. teach all of the limitations of these claims. Garrison et al. teach an apparatus that can hold an annuloplasty ring including:

- a) a holder body 70 configured to hold an annuloplasty ring;
- b) a handle coupling 80 on the holder body with a non-circular opening 82 to receive and couple to the tip of a handle, where the opening is raised and may be used for gripping;
- c) a handle; and
- d) a release mechanism coupled to the handle coupling with a spring 38 and a release 44 such that the tip of a handle is slidable and locked within the opening of the handle coupling, where the release may be described as a clip, button, or knob (figures 1, 2, and 5A).

8. Referring to claims 17-20, Garrison et al. teach all of the limitations of these claims. Garrison teaches a handle with an elongated shaft having a gripping portion with flat portions or ribs and a tip with a knob 44 to be locked in an apparatus, an abutting surface 38 that abuts the apparatus, and walls that are aligned with flat portions on the grip.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3739

10. Claims 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Garrison et al. (USPN 5972030) in view of Rhee et al. (USPN 6019739).

11. Referring to claims 9 and 21, Garrison et al. teach all of the limitations of these claims as described above except for the opening and walls of the tip of the handle being tapered. Rhee et al. teach a similar device including a body, handle coupling, and handle where the body has a tapered opening for receiving the tapered tip of a handle (figure 1). It would have been obvious to one of ordinary skill in the art at the time of invention that the device of Garrison et al. could have included a handle coupling mechanism including a tapered opening and tip as in Rhee et al. as part of a suitable means for coupling the handle to the holder body.

Conclusion

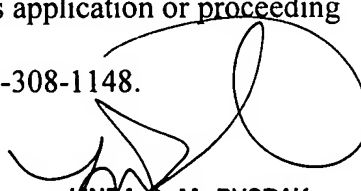
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kenneth G Schopfer whose telephone number is 703-305-2649. The examiner can normally be reached on M-F (8:00-5:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Linda Dvorak can be reached on 703-308-0994. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.


KS

March 26, 2003


LINDA C. M. DVORAK
SUPERVISORY PATENT EXAMINER
GROUP 3700